

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SILVIO R. ILLESCAS,

Plaintiff,

-against-

DR. JOHN MORLEY; DR. ROBERT V.
BENTIVEGNA; ALBERT ACRISH; NICOLET
T. THOMPSON; JOHN DOE
CORRECTIONAL OFFICERS #1, #2, #3, #4;
DR. MOHAMME; DR. ODENLYL; SUSANNA
NAYSHULER; and DR. KIM,

Defendants.

USDC SDNY
DOCUMENT
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DATE FILED: 8/3/2023

21-CV-8473 (NSR)

ORDER OF PARTIAL DISMISSAL

NELSON S. ROMÁN, United States District Judge:

Plaintiff Silvio R. Illescas, currently incarcerated at Green Haven Correctional Facility, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants were deliberately indifferent to his serious medical needs. In an Opinion & Order dated December 7, 2022, this Court dismissed Plaintiff's Complaint and granted Plaintiff leave to amend and replead any claims that were dismissed without prejudice. (ECF No. 95.) The Court allowed Plaintiff until January 10, 2023 to file an Amended Complaint consistent with the Opinion and Order. (*Id.* at 17.) The Court expressly warned that failure to timely file an Amended Complaint or otherwise show "good cause to excuse such a failure" would result in "dismissal with prejudice of all claims that this Court has dismissed without prejudice." (*Id.*) The Court granted Plaintiff three extensions of time to file the Amended Complaint. (ECF Nos. 99, 102, 110, and 115.) Plaintiff timely filed an Amended Complaint on July 31, 2023 (ECF No. 117), adding the following Defendants: Nicolet T. Thompson; John Doe Correctional Officer #1, #2, #3, #4; Dr. Mohammed; Dr. Odenlyl; Susanna Nayshuler; and Dr. Kim. (ECF No. 117.) Plaintiff, however, did not include claims previously asserted against Defendants Anthony J. Annucci, Vassar Brothers Medical Center, Sajin A. Pillaj,

Jesse M. Wolstein, Dr. Bruce R. Gendron, Hector Ojeda-Martinez, Sehrish Shahid, and Dr. Robert U. Mmereole.

As a result of Plaintiff's decision not to include claims against these Defendants, those claims previously asserted against Defendants Anthony J. Annucci, Vassar Brothers Medical Center, Sajin A. Pillaj, Jesse M. Wolstein, Dr. Bruce R. Gendron, Hector Ojeda-Martinez, Sehrish Shahid, and Dr. Robert U. Mmereole and dismissed without prejudice are now deemed dismissed with prejudice.

The Clerk of Court is kindly directed to terminate the motion at ECF No. 120. The Clerk of Court is further directed to mail a copy of this Order to *pro se* Plaintiff at Plaintiff's address listed on ECF and to show service on the docket.

SO ORDERED.

Dated: August 3, 2023
White Plains, New York



NELSON S. ROMÁN
United States District Judge